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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,806	08/04/2000	Lise Thibodeau	045636-5039	2513

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MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004

EXAMINER

PARKIN, JEFFREY S

ART UNIT PAPER NUMBER

1648

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/632,806	<b>Applicant(s)</b> THIBODEAU ET AL.	
	<b>Examiner</b> Jeffrey S. Parkin, Ph.D.	<b>Art Unit</b> 1648	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 02 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-23 is/are pending in the application.
- 4a) Of the above claim(s) 6-14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-23 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Notice to Comply</u> .                 |

**Response to Amendment**

***Status of the Claims***

Acknowledgement is hereby made of receipt and entry of the communication filed 29 October, 2003. Claims 6-14 have been are withdrawn from further consideration by the examiner, pursuant to 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention. Claims 15-23 are currently under examination.

***35 U.S.C. § 112, Second Paragraph***

The previous rejection of claims 15-20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is hereby withdrawn in response to applicants' amendment.

***35 U.S.C. § 103(a)***

The previous rejection of claims 15-20 under 35 U.S.C. § 103(a) as being unpatentable over Haigwood et al. (1998) in view of Cates et al. (2000), is hereby withdrawn in response to applicants' amendment.

***Allowable Subject Matter***

Claims 15-23 appear to be free of the prior art and are allowable.

***Ex parte Quayle***

This application is in condition for allowance except for the following formal matters:

1) This application contains claims 6-14 drawn to an invention nonelected with traverse. A complete response to the Office action must include cancellation of the non-elected claims or

other appropriate action (refer to 37 C.F.R. § 1.144 and M.P.E.P. § 821.01).

2) This application fails to comply with the requirements of 37 C.F.R. § 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2) (e.g., see pages 2, 6, and 19). Applicants should amend the claim language to include the appropriate sequence identifier. Applicants should also review the sequence listing to ensure it matches those sequences disclosed in the specification. Any questions regarding compliance with the sequence rules requirements specifically should be directed to the departments listed at the bottom of the Notice to Comply.

Failure to comply with these requirements will result in **ABANDONMENT** of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this action.

#### **Correspondence**

1. Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (571) 272-0908. The examiner can normally be reached Monday through


Thursday from 9:30 AM to 7:00 PM. A message may be left on the  
examiner's voice mail service. If attempts to reach the  
examiner are unsuccessful, the examiner's supervisors, Laurie  
Scheiner or James Housel, can be reached at (571) 272-0910 or  
5 (571) 272-0902, respectively.

Respectfully,



10 Jeffrey S. Parkin, Ph.D.  
Art Unit 1648

09 February, 2004



JAMES HOUSEL 2/23/04  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600